

REMARKS

In response to the Decision on Request for Rehearing, Applicant presents these amendments and arguments as the required submission with the Request for Continued Examination filed concurrently herewith.

With regard to the claim amendments, Applicant has amended claim 1 to require that the liner includes an "access opening having a height substantially equal to a height of one of said elongated sides." Claims 9-11 and 13-20 have been cancelled, while claims 21-29 are new.

Specifically addressing the new claims, claim 21 adds to claim 6 the requirement that a height of the second access opening is substantially equal to the height of the first access opening. Claim 22 presents a liner having four elongated panels, no more than one access opening along each of the elongated sides, first and second end panels free of any openings, and a closure. Dependent claims 23 and 24 further define the liner of claim 22. In particular claim 23 requires that the no more than one access opening includes an open tube, while claim 24 requires that the no more than one access opening has a height substantially equal to a height of one of the elongated sides.

Claim 25 covers a liner having four elongated panels, first and second end panels free of any openings, an access opening having a height and width substantially equal to the height and width of an opening of the container adjacent to the access opening, and a closure. This claim also requires that the liner is free-standing when erected in the container. Dependent claim 26 includes the limitation that there is no more than one access opening along each of the elongated sides. Claim 27 requires that the liner include a second access opening, while claim 28 requires that the height and width of the second access opening is substantially equal to the height and width of the first opening. Claim 29 requires that the access opening includes an open tube.

Applicant respectfully submits that none of the references cited during prosecution teach or suggest the limitations of claims 1-8, 12, and 21-29. In the final Office Action issued in this matter, all of the Examiner's rejections hinged on the teachings of U.S. Patent No. 3,951,284 to Fell et al. (the "'284 Patent"). The Board of Patent Appeals and Interferences stated that the '284 Patent teaches "a liner having sides adjacent the walls of a shipping vehicle, wherein the side of *the liner adjacent the shipping vehicle door opening has at least two apertures in the upper portion of the liner for loading and at least one aperture in the lower portion for unloading.*" *Decision on Appeal*, decided December 19, 2007, p.4 (emphasis added). As acknowledged by the Board, the '284 Patent requires *a plurality of apertures* in the side of the liner adjacent the shipping vehicle door opening (which the '284 Patent discloses as being in the end panel). The '284 Patent also requires that the apertures are positioned "in the upper portion of the liner for loading" and "in the lower portion for unloading."

In great contrast, Applicant's amended claim 1 covers a liner including an "access opening having a height substantially equal to a height of one of said elongated sides" of the container. Nowhere does the '284 Patent teach or suggest this configuration of access opening. Rather, the '284 Patent goes to great lengths to describe apertures positioned in the upper and lower portions of the liner, none of which have a height substantially equal to a height of one of the elongated sides.

Moreover, one would not modify the apertures of the liner in the '284 Patent because this would require a complete redesign and would change the principle of operation of the liner. The '284 Patent requires the plurality of apertures to limit access to the contents of the liner during loading and unloading. Specifically, the aperture in the lower portion of the liner may be closed off during loading of material into the liner through the apertures in the upper portion. This allows for the liner to be filled with "bulk material" (e.g., powder, pellets,

flakes, granules, and liquid), as described in the '284 Patent. *See Col. 1, ll. 11-15.* Having an opening with a height substantially equal to a height of one of the elongated sides would prevent the user from creating a partial wall or barrier by closing off the apertures in the lower portion of the liner. This wall or barrier retains the bulk material during loading and allows for the liner to be filled to a desired height. An opening with the height substantially equal to a height of the elongated sides would allow the material to exit the liner during the loading process.

When unloading the material in the liner, the aperture in the upper portion may be closed off, while the aperture in the lower portion is opened to release the material. This enables the desired "flow" of materials out of the liner when the container is tilted, as required by the '284 Patent. An opening having a height substantially equal to a height of one of the elongated sides would prevent a user from being able to control the unloading.

Next, Applicant's claim 22 covers a liner having four elongated panels and no more than one access opening along each of the elongated sides. As discussed above, the '284 Patent requires *a plurality of apertures* in the side of the liner adjacent the shipping vehicle door opening. Nowhere does the '284 Patent teach or suggest a liner with no more than one access opening. Instead, the '284 Patent goes to great lengths to describe *separate* apertures for loading and unloading. One would also not modify the apertures of the liner in the '284 Patent because this would eliminate either the loading or unloading apertures. As discussed with regard to claim 1, these separate apertures allow for the loading of "bulk materials" and the controlled unloading of the same.

Turning to claim 25, this claim requires a liner including an access opening having a height and width substantially equal to the height and width of an opening of the elongated container adjacent to the access opening. This claim also requires that the liner is free-standing when erected in the container and that the first and second end panels that are free

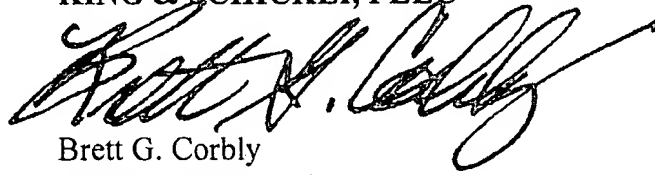
Application Serial No. 09/684,032
Amendment dated May 16, 2008

of any openings. As previously discussed, the '284 Patent requires apertures positioned in the upper and lower portions of the liner. Accordingly, it fails to teach or suggest the access opening of this claim. Furthermore, the liner of the '284 Patent is not free-standing when erected. Instead, the liner includes tabs 35, each of which is "connected to a hook 26 by means of a stretchable connector 37" associated with the container.

In view of the foregoing, Applicant respectfully submits that a Notice of Allowance should be issued for claims 1-8, 12, and 21-29. The undersigned authorizes the deduction of any necessary fees from Deposit Account 11-0978.

Respectfully submitted,

KING & SCHICKLI, PLLC



Brett G. Corbly
Registration No. 56,522

247 North Broadway
Lexington, KY 40507-1058
(859) 252-0889